

## COURT DECISIONS.

DIGESTED BY W. B. MARTIN  
EXCLUSIVELY FOR  
VIRGINIAN-PILOT.

Notes of Cases Recently Decided  
Which Are of Interest to  
Our People.

SMITH V. POWELL.  
Supreme Court of Appeals of Virginia.  
July 6, 1900.

NO OTHER DECREE CAN BE ENTERED AFTER A FINAL DECREE.

AN ATTORNEY AT LAW CANNOT, WITHOUT SPECIAL AUTHORITY, ACCEPT ANYTHING BUT MONEY IN PAYMENT OF HIS CLIENT'S DEMAND, AND THE LATTER IS NOT BOUND BY SUCH ACT OF HIS ATTORNEY.

A PETITION FOR APPEAL FROM A DECREE OBTAINED BY DEFAULT CANNOT BE ENTERED UNTIL RELIEF HAS BEEN SOUGHT UNDER CODE SECTION 451 BY MOTION TO THE LOWER COURT. IF THE TIME ALLOWED FOR THIS MOTION HAS ELAPSED THE DECREE IS IRREVOCABLE.

The main question in this case was whether an attorney could take a note in satisfaction of a decree made in favor of his client.

The decree of April, 1893, having been a final decree, no other decree could regularly have been entered in the cause. No such objection to the proceeding, however, is made, because as was stated at the bar it was done by agreement among counsel.

That Scott had no authority as attorney to receive anything other than money in satisfaction of his client's demands is not controverted, and that being the case we do not perceive how Scott's conduct, in accepting the evidence established all for which the defendants contend, could operate by way of estoppel to the prejudice of his client. It is plain from the evidence that he gave Scott no previous authority to act otherwise than as his attorney at law. It is equally plain from the evidence that he never by word or deed consented to or ratified the acceptance of Preston's note as a part satisfaction of the decree in his favor. But there can be no estoppel here in this case, or against any one. It is of the essence of estoppel that the act relied upon as such should have been injurious and to the prejudice of him who relies upon it as estoppel.

The defendants have not been injured by anything said or done by the plaintiff or his attorney. The note which was received was not due for a year, and within that period every one interested was informed of the truth of the matter: that it had been taken under a misapprehension of facts and that both Scott and Preston, his attorney, had declared that the Preston note would not be accepted, while they would be glad if he would pay the money which it was intended to represent. The Buckner check injured nobody. It was not collected, and if it had been it represented only the amount for which Buckner was in any event liable.

But it is said that the defendants were prevented from taking an appeal. Both, we reiterate, did nothing that estopped them. He was not in any way responsible for the failure to appeal, and after appellants were informed of his position there was yet ample time to move in the Hastings Court to have the decree corrected, and failing in this, to apply to the Court of Appeals for such relief as they might have shown themselves entitled to.

We are of opinion that the Hastings Court erred in crediting the decree of April 23, 1893, by the amount of the Preston note.

Appellants seek, under Rule IX, to assign as error the ruling of the court against them in that decree, by which they were held liable as partners or joint obligors. The decree, as we have seen, was taken against them by default, and by virtue of section 451 of the Code (this court had no jurisdiction to entertain a petition for appeal until relief had been sought under section 451 by a motion to the court in which the decree was rendered. That motion was never made. The time within which it could be made has expired, and the decree has long since become final and irrevocable. Reversed.

IMPORTED GRAPE VINES.

MR. B. S. LINDSAY WILL EXPERIMENT WITH HUNGARIAN VARIETIES.

Mr. Barth. S. Lindsay, the well-known umbrella manufacturer, of this city, proposes to try an experiment that will be watched with great interest, as, if the results are successful, it will probably lead to the planting in this vicinity of a considerable acreage of Hungarian vines of the finer sorts.

It is well known that some of the choicest grapes in the world are raised in Hungary, Mr. Lindsay's native land. On account of the phylloxera, however, it has been found advisable to use native American stocks (the so-called "Kernian" or "Virginia" vines) to which to graft the Hungarian vines. The American stock is immune from phylloxera, and has been the salvation of many valuable European grape-growing and wine-producing districts.

Mr. Lindsay is preparing to import several varieties of the Hungarian vines on American roots, selecting such varieties as are specially adapted for table grapes. He proposes to plant out several acres as an experiment to see if the imported varieties take kindly to Virginia soil.

Although the outcome of his efforts cannot be predicted, the fact that Virginia is the original home of some of the most valuable species of grapes grown would lead one to believe that the experiment will be a success. If it is, the proximity of the Norfolk section to New York, Baltimore, Washington, Philadelphia, and other desirable markets will tend to encourage the extensive planting here of choice foreign varieties.

Go to the Annual Convention of the National Baptist Association (colored), at Richmond, Va., September 12th-20th, by the SEABOARD AIR LINE RAILWAY.

Dr. A. Week manager of the optical department of the Gale Jewelry Company will examine your eyes free. Defective vision and complicated cases specially invited to call.

Eyes Examined Free.

Allen Crawford, the infant son of Mr. and Mrs. W. C. Dunn, died at the residence of his grandmother, Mrs. Amelia Alt. No. 25 Shields street, yesterday. The funeral will take place from the above residence at 5 o'clock this afternoon.

Death of an Infant.

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